

**UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.<sup>1</sup>

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**JOINT STATUS REPORT OF MOVANT AMBAC ASSURANCE CORPORATION AND  
RESPONDENTS THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR  
PUERTO RICO, AS REPRESENTATIVE OF THE COMMONWEALTH OF PUERTO  
RICO, AND THE PUERTO RICO FISCAL AGENCY AND FINANCIAL ADVISORY  
AUTHORITY WITH RESPECT TO THE RULE 2004 MOTIONS**

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801).

To the Honorable United States Magistrate Judge Judith Gail Dein:

Movant Ambac Assurance Corporation (“Ambac”) and Respondents the Financial Oversight and Management Board for Puerto Rico (“Oversight Board”), as representative of the Commonwealth of Puerto Rico (“Commonwealth” or “Debtor”) pursuant to section 315(b) of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), and the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF,” and together with the Oversight Board, the “Government Parties”),<sup>2</sup> respectfully submit this Joint Status Report in response to the Court orders dated January 23, 2020 (Dkt. No. 10332) and February 6, 2020 (Dkt. No. 10727).

## **I. STATUS UPDATE REGARDING AMBAC’S RULE 2004 REQUESTS**

1. On October 28, 2019, Ambac filed *Ambac Assurance Corporation’s Motion for Entry of Order Authorizing Discovery Under Bankruptcy Rule 2004 Concerning Commonwealth Assets* (Dkt. No. 9022) (the “Assets Motion”), and *Ambac Assurance Corporation’s Motion for Entry of Order Authorizing Discovery Under Bankruptcy Rule 2004 Concerning Commonwealth Cash Restriction Analysis* (Dkt. No. 9023) (the “Cash Motion,” and together with the Assets Motion, the “Rule 2004 Motions”).

2. On November 8, 2019, the Government Parties filed the *Urgent Motion of Financial Oversight and Management Board for Puerto Rico and Puerto Rico Fiscal Agency and Financial Advisory Authority to Strike (A) Ambac Assurance Corporation’s Motion for Entry of Order Authorizing Discovery Under Bankruptcy Rule 2004 Concerning Commonwealth Assets [ECF No. 9022] and (B) Ambac Assurance Corporation’s Motion for Entry of Order Authorizing Discovery Under Bankruptcy Rule 2004 Concerning Commonwealth Cash Restriction Analysis [ECF No. 9023] and for Sanctions* (Dkt. No. 9131) (the “Motion to Strike”).

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<sup>2</sup> Movant and the Government Parties are collectively referred to as the “Parties.”

3. On January 23, 2020, Judge Swain issued a memorandum order denying the Motion to Strike (Dkt. No. 10332) (the “Memorandum Order”). The Memorandum Order directed the parties to meet and confer by February 3, 2020 concerning the scope and mechanics of discovery responsive to the Rule 2004 Motions. *Id.* at 9.

4. The Memorandum Order requires the Parties to file this Joint Status Report “setting forth their agreed parameters and a timetable for compliance as well as a proposed mechanism for the resolution of any aspects of the Rule 2004 Motions that remain disputed.” *Id.* at 10.

5. On February 3, 2020, the Parties met and conferred by telephone. Counsel for Ambac explained that it was willing in the first instance to narrow its requests from those originally appended to the Rule 2004 Motions and focus on a core set of prioritized requests (the “Prioritized Requests”), while reserving its right to seek further information and the Government Parties’ right to object to any such additional requests. Counsel for Ambac described the nature of the information sought by the Prioritized Requests. Counsel for Ambac also indicated that, in addition to materials responsive to the Prioritized Requests, it would seek one or more Rule 30(b)(6) depositions on the subject matter of the Prioritized Requests, noting that such testimony had the potential to streamline the discovery process and might be less burdensome than further document discovery.

6. On February 4, 2020, at the Government Parties’ request, Ambac sent the Government Parties a letter via email (the “February 4 Letter”) setting forth in writing the Prioritized Requests discussed on the February 3, 2020 call.<sup>3</sup> The February 4 Letter reiterated that Ambac seeks Rule 30(b)(6) depositions on the subject matter of the Prioritized Requests.

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<sup>3</sup> The February 4 Letter is attached as Exhibit A.

7. The Government Parties have been working with their clients and their respective consultants and advisors in order to determine what core, readily accessible information they could provide in response to Prioritized Requests that will not be unduly burdensome or disruptive of operations.

8. On February 11, 2020, the Government Parties provided Ambac with an update on their position regarding the requests and their ongoing collection efforts (the “February 11 Response”).<sup>4</sup> With respect to certain of the Prioritized Requests, the Government Parties asked Ambac for additional information regarding the materials sought and their alleged relevance. With respect to another, the Government Parties asked Ambac to consider further narrowing the scope of the materials sought. With respect to deposition witnesses, the Government Parties expressed their willingness to continue to meet and confer with Ambac upon receipt of 30(b)(6) testimony topics.

9. Ambac responded that it would evaluate the February 11 Response and respond in due course.

10. The Government Parties currently anticipate they will produce core materials in response to the majority of the Prioritized Requests, but require additional time to determine what reasonably accessible materials exist and a reasonable timeframe for their production. As noted, Ambac is currently evaluating the February 11 Response, and agrees to meet and confer with the Government Parties in an effort to reach resolution of any disputes or concerns regarding the Prioritized Requests.

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<sup>4</sup> The February 11 Response is attached as Exhibit B.

11. For this reason, the Parties propose to provide this Court with an updated joint status report on **February 26, 2020**, one week prior to the next Omnibus hearing, regarding the progress of the Parties' continuing meet and confer efforts.

## **II. RESPONSE TO JOINDERS**

12. Following Ambac's filing of the Rule 2004 Motions, various parties filed joinders (the "Joinders") in support of the relief sought in those motions. *See* Corporación de Servicios Integrales de Salud del Area de Barranquitas, Comerío, Corozal, Naranjito y Orocovis ("Corporación de Servicios Integrales") (Dkt. No. 9526); Assured Guaranty Corp. and Assured Guaranty Municipal Corp. (together, "Assured"), and National Public Finance Corporation ("National") (Dkt. No. 10593); Official Committee of Unsecured Creditors ("UCC") (Dkt. No. 10425); Salud Integral en la Montaña ("SIM") (Dkt. No. 10401); Financial Guarantee Insurance Company ("FGIC") (Dkt. No. 10605) (together, the "Joinder Entities").

13. On February 6, 2020, this Court issued an order denying the Joinder Entities' requests to participate in the meet and confer process ordered by Judge Swain, and requiring that this Joint Status Report respond to the requests to receive the same information as Ambac related to the Commonwealth's financial condition and to participate in any depositions taken in connection with the Rule 2004 Motions (Dkt. No. 10727) (the "Joinder Order").

14. The Parties voluntarily allowed the Joinder Entities to participate in the February 3, 2020 meet and confer. While this Court has denied the Joinder Entities' request to be included in all meet and confer discussions, the Parties do not presently object to the Joinder Entities' continued participation, provided it does not compromise the productivity of the Parties' discussions.

15. The Parties will provide the Joinder Entities the documents the Government Parties produce in response to Ambac's Rule 2004 Requests, subject to the entry of an appropriate protective order.

16. With respect to depositions, the Parties do not presently object to the Joinder Entities attending or receiving transcripts of any depositions that may take place in connection with Ambac's Rule 2004 Motions. However, the Parties reserve their rights with respect to whether the Joinder Entities may ask questions at those depositions taken in connection with the Rule 2004 Motions. In the event depositions are scheduled, the Parties will meet and confer with the Joinder Entities to discuss their participation in the depositions.

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Dated: February 12, 2020  
San Juan, Puerto Rico

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**CERTIFICATE OF SERVICE**

I hereby certify that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to all CM/ECF participants in this case.

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